

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 497

Introduced by Wickersham, 49

Read first time January 15, 1999

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to deferred compensation; to amend section
2 48-1401, Reissue Revised Statutes of Nebraska, and
3 section 84-1504, Revised Statutes Supplement, 1998; to
4 authorize county employees to participate in a deferred
5 compensation plan as prescribed; to define terms; to
6 provide duties; to harmonize provisions; and to repeal
7 the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1401, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1401. (1) Any county, municipality, or other
4 political subdivision, instrumentality, or agency of the State of
5 Nebraska, except any agency subject to sections 84-1504 to 84-1506
6 or section 85-106, 85-320, or 85-606.01, may enter into an
7 agreement to defer a portion of any ~~employee's or independent~~
8 ~~contractor's income~~ individual's compensation derived from such
9 county, municipality, or other political subdivision,
10 instrumentality, or agency to a future period in time pursuant to
11 section 457 of the Internal Revenue Code. Such deferred
12 compensation plan shall be voluntary and shall be available to all
13 regular employees and elected officials.

14 (2) The ~~income compensation~~ to be deferred ~~may~~ shall
15 never exceed the total compensation to be received by the ~~employee~~
16 ~~or independent contractor individual~~ individual from the employer or exceed
17 the limits established by the Internal Revenue Service for such a
18 plan.

19 (3) All compensation deferred under the plan, all
20 property and rights purchased with the deferred compensation, and
21 all investment income attributable to the deferred compensation,
22 property, or rights shall be held in trust for the exclusive
23 benefit of participants and their beneficiaries by the county,
24 municipality, or other political subdivision, instrumentality, or
25 agency until such time as payments are made under the terms of the
26 deferred compensation plan. Existing plans shall be amended by
27 January 1, 1999, to comply with this provision.

28 (4) The ~~treasurer of the~~ county, municipality, or other

1 political subdivision, instrumentality, or agency shall designate
2 its treasurer or an equivalent official, including the State
3 Treasurer, to be the custodian of the funds and securities of the
4 deferred compensation plan.

5 (5) The county, municipality, or other political
6 subdivision, instrumentality, or agency may invest the ~~income~~
7 compensation to be deferred under an agreement in ~~the following~~
8 ~~categories of investment or insurance or with:~~ (a) Life insurance
9 Annuities; (b) ~~annuities;~~ ~~(c)~~ mutual funds; ~~(d)~~ bank savings
10 ~~accounts or~~ (c) banks; (d) savings and loan associations; (e) trust
11 companies qualified to act as fiduciaries in this state; ~~or~~ (f) an
12 organization established for the purpose of administering public
13 employee deferred compensation retirement plans and ~~which have been~~
14 ~~approved by the United States Internal Revenue Service as nonprofit~~
15 ~~and tax exempt;~~ licensed authorized to do business in the State of
16 Nebraska; or (g) investment advisors as defined in the federal
17 Investment Advisor Act of 1940.

18 (6) The deferred compensation program shall exist and
19 serve in addition to, and shall not be a part of, any existing
20 retirement or pension system provided for state, county, municipal,
21 or other political subdivision, instrumentality, or agency
22 employees, or any other benefit program.

23 (7) Any ~~income~~ compensation deferred under such a
24 deferred compensation plan shall continue to be included as regular
25 compensation for the purpose of computing the retirement, pension,
26 or social security contributions made or benefits earned by any
27 employee.

28 (8) Any sum so deferred shall not be included in the

1 computation of any federal or state taxes withheld on behalf of any
2 such ~~employee or independent contractor~~ individual.

3 (9) The state, county, municipality, or other political
4 subdivision, instrumentality, or agency shall not be responsible
5 for any investment results entered into by the ~~employee or~~
6 ~~independent contractor~~ individual in the deferred compensation
7 agreement.

8 (10) All compensation deferred under the plan, all
9 property and rights purchased with the deferred compensation, and
10 all investment income attributable to the deferred compensation,
11 property, or rights shall not be subject to garnishment,
12 attachment, levy, the operation of bankruptcy or insolvency laws,
13 or any other process of law whatsoever and shall not be assignable.

14 (11) Nothing contained in this section shall in any way
15 limit, restrict, alter, amend, invalidate, or nullify any deferred
16 compensation plan previously instituted by any county,
17 municipality, or other political subdivision, instrumentality, or
18 agency of the State of Nebraska, and any such plan is hereby
19 authorized and approved.

20 (12) If a county has not established a deferred
21 compensation plan pursuant to this section, each individual may
22 require that the county enter into an agreement with the individual
23 to defer a portion of such individual's compensation and place it
24 under the management and supervision of the state deferred
25 compensation plan created pursuant to sections 84-1504 to 84-1506.
26 If such an agreement is made, the county shall designate the State
27 Treasurer as custodian of such deferred compensation funds, and
28 such deferred compensation funds shall become a part of the trust

1 administered by the Public Employees Retirement Board pursuant to
2 sections 84-1504 to 84-1506.

3 (13) For purposes of this section, individual means (a)
4 any person designated by the county, municipality, or other
5 political subdivision, instrumentality, or agency of the State of
6 Nebraska, except any agency subject to sections 84-1504 to 84-1506,
7 85-106, 85-320, or 85-606.01, as a permanent part-time or full-time
8 employee of the county, municipality, or other political
9 subdivision, instrumentality, or agency and (b) a person under
10 contract providing services to the county, municipality, or other
11 political subdivision, instrumentality, or agency of the State of
12 Nebraska, except any agency subject to sections 84-1504 to 84-1506,
13 85-106, 85-320, or 85-606.01, and who has entered into a contract
14 with such county, municipality, political subdivision,
15 instrumentality, or agency to have compensation deferred prior to
16 the effective date of this act.

17 Sec. 2. Section 84-1504, Revised Statutes Supplement,
18 1998, is amended to read:

19 84-1504. (1) The Public Employees Retirement Board, on
20 behalf of the state, may contract with any ~~state employee, whether~~
21 ~~employed on a permanent or temporary basis, full-time or part-time,~~
22 ~~including an individual under contract providing services to the~~
23 ~~state who is not employed by the University of Nebraska or any of~~
24 ~~the state colleges or community colleges,~~ individual to defer a
25 portion of such ~~employee's~~ individual's compensation pursuant to
26 section 457 of the Internal Revenue Code.

27 (2) The compensation to be deferred shall not exceed the
28 total compensation to be received by the ~~employee or independent~~

1 ~~contractor~~ individual from the employer or exceed the limits
2 established by the Internal Revenue Service for such a plan.

3 (3) The deferred compensation program shall serve in
4 addition to but not be a part of any existing retirement or pension
5 system provided for state or county employees or any other benefit
6 program.

7 (4) Any compensation deferred under such a deferred
8 compensation plan shall continue to be included as regular
9 compensation for the purpose of computing the retirement, pension,
10 or social security contributions made or benefits earned by any
11 employee.

12 (5) Any sum so deferred shall not be included in the
13 computation of any federal or state taxes withheld on behalf of any
14 such ~~employee or independent contractor~~ individual.

15 (6) The state, the board, the state investment officer,
16 ~~or~~ the agency, or the county shall not be responsible for any
17 investment results entered into by the ~~employee or independent~~
18 ~~contractor~~ individual in the deferred compensation agreement.

19 (7) Nothing in this section shall in any way limit,
20 restrict, alter, amend, invalidate, or nullify any deferred
21 compensation plan previously instituted by any instrumentality or
22 agency of the State of Nebraska, and any such plan is hereby
23 authorized and approved.

24 (8) For purposes of this section, individual means (a)
25 any state employee, whether employed on a permanent or temporary
26 basis, full-time or part-time; (b) a person under contract
27 providing services to the state who is not employed by the
28 University of Nebraska or any of the state colleges or community

1 colleges and who has entered into a contract with the state to have
2 compensation deferred prior to the effective date of this act; and
3 (c) any county employee designated as a permanent part-time or
4 full-time employee or elected official whose employer does not
5 offer a deferred compensation plan and who has entered into an
6 agreement pursuant to section 48-1401.

7 Sec. 3. Original section 48-1401, Reissue Revised
8 Statutes of Nebraska, and section 84-1504, Revised Statutes
9 Supplement, 1998, are repealed.